

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6083 OF 2005

Umesh Sudama Singh. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Ms.V.V.Thorat for the Applicant.

Shri A.S.Gadkari, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 28th Sept., 2005.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P. for the State. The offence registered against the Applicant and the co-accused is under sections 302, 323, 504 read section 34 of the Indian Penal Code. The learned Advocate for the Applicant submitted that the age of the Applicant is only 22 years and he is employed in Mumbai and is a permanent resident of Mumbai and has no criminal antecedents. The learned Advocate for the Applicant invited my attention to the statement of the eye witness Anant and pointed out that according to the said witness the Applicant only gave fist blows on the abdomen of the deceased and the alleged strangulation of the deceased was by the co-accused. The learned Advocate for the Applicant stated that if the Applicant is enlarged on bail, he will not enter the area falling within the jurisdiction of the Oshiwara Police Station till conclusion of trial.

2. The learned A.P.P. pointed out the relevant portions of the Postmortem Notes and submitted that the Applicant and the co-accused have committed offence of brutal nature. He submitted that there is every possibility that the Applicant will make attempt to tamper with the prosecution evidence if he is enlarged on bail.

3. I have considered the submissions. The first informant has stated that the Applicant and the co-accused assaulted the deceased and banged his head on a wall. She has stated that both the accused persons strangled the deceased to death. She is the aunt of the deceased. The only other eye witness is Anant whose version, at this stage, appears to be inconsistent with the version of the first informant in so far as the role played by the Applicant is concerned. The witness Anant has stated that the co-accused strangled the deceased and the Applicant only gave fist blows on the deceased in his abdomen. In fact the only role attributed by the said witness to the Applicant is regarding the giving of fist blows. Considering this aspect and considering the fact that there are no criminal antecedents of the Applicant who is only 22 years old, he is entitled to be enlarged on bail. An assurance is given on behalf of the Applicant that he will not enter the area falling within the jurisdiction of the concerned Police Station.

However, stringent conditions deserve to be imposed on the Applicant.

4. Hence the following order is passed:

- (i) The Applicant shall be enlarged on bail in connection with C.R.No.359 of 2005 registered at Oshiwara Police Station, subject to furnishing a personal bond of Rs.15,000/- with one or two local sureties.
- (ii) The bail is granted subject to condition that till conclusion of the trial, the Applicant will not enter the area falling within the jurisdiction of the Oshiwara Police Station, Mumbai. The order granting bail will be given effect only after the Applicant furnishes to the Investigating Officer the detailed address of the place of residence where the Applicant proposes to stay after he is enlarged on bail.
- (iii) The bail is granted subject to further condition that the Applicant will report to the concerned local Police Station once in a fort-night till conclusion of

trial.

(vi) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(v) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

Judge.